

EXHIBIT 5

UNITED STATES DISTRICT COURT

for the

Northern District of California

In re: Request for International Judicial Assistance

Plaintiff from the Twenty-ninth Civil Judge for

v. Written Trials of the Supreme Tribunal of Civil Action No.

Justice of Mexico City, Mexico in the

Matter of IFM Global Infrastructure Fund,

et al. v. Paulo Jenaro Diez Gargari

Defendant

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To:

Twitter, Inc.

1355 Market Street, Suite 900 San Francisco, CA

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attachment A

Place: U.S. Attorney's Office for the Northern District of
California, 450 Golden Gate Ave., 9th Floor,
San Francisco, CA 94102 OR sapna.mehta@usdoj.gov

Date and Time:

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk_____
Attorney's signatureThe name, address, e-mail address, and telephone number of the attorney representing (name of party) United States

_____, who issues or requests this subpoena, are:

Sapna Mehta, 450 Golden Gate Ave., 9th Floor, San Francisco, CA 94102 (415) 436-7200; sapna.mehta@usdoj.gov**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
 on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

ISMAIL J. RAMSEY (CABN 189820)
United States Attorney
MICHELLE LO (NYRN 4325163)
Chief, Civil Division
SAPNA MEHTA (CABN 288238)
Assistant United States Attorney

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Attorneys for the United States of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: REQUEST FOR JUDICIAL)	MISC. NO.
ASSISTANCE FROM THE TWENTY-NINTH)	
CIVIL JUDGE FOR WRITTEN TRIALS OF)	
THE SUPREME TRIBUNAL OF JUSTICE OF)	ATTACHMENT A TO SUBPOENA
MEXICO CITY, MEXICO IN THE MATTER)	
OF IFM GLOBAL INFRASTRUCTURE)	
FUND, ET AL. v. PAULO JENARO DIEZ)	
GARGARI)	

I, Sapna Mehta, an Assistant United States Attorney for the Northern District of California, acting under the authority of 28 U.S.C. § 1782, for the purpose of rendering assistance to the Twenty-ninth Civil Judge for Written Trials of the Supreme Tribunal of Justice of Mexico City, Mexico, request that you provide the evidence listed in the enclosed Letter of Request for use in a civil lawsuit, entitled *IFM Global Infrastructure Fund, et al. v. Paulo Jenaro Diez Gargari*, Foreign Reference Number No. 288/2020, said evidence being:

- a) Information of the Twitter accounts @PDiezG and @AurorasResearch
- b) History of such accounts
- c) Apps and devices associated to such accounts
- d) History of the IP addresses registered in each account
- e) Registry of activities of each account
- f) Telephone numbers with which each account is registered
- g) E-mail account of each account

- h) Birth date of each account
- i) All the identification information of the registry of the accounts @PDiezG and @AurorasResearch

Pursuant to the enclosed Order, please provide this information along with a notarized verification signed under penalty of perjury. If you cannot provide the requested information (including, *inter alia*, because records have been lost or destroyed), please provide the facts you rely upon in support of your contention that you cannot do so. To the extent information is not provided because of an assertion of privilege, please state the specific privilege relied upon. If you object to responding only in part, please provide that portion of the request you do not object to producing and indicate what portion you have withheld based on an assertion of privilege.

Please provide the evidence by email to sapna.mehta@usdoj.gov or by mail to the following address by no later than [30 days from subpoena service]:

Sapna Mehta
U.S. Attorney's Office
450 Golden Gate Ave. Box 36055
San Francisco, CA 94102

The recipient of the attached subpoena may, for good cause shown, oppose the giving of evidence or the circumstances thereof, by motion timely filed with the Court.

DATED: March 22, 2023

ISMAIL J. RAMSEY
United States Attorney

/s/ Sapna Mehta
SAPNA MEHTA
Assistant United States Attorney

CERTIFICATE OF SERVICE

The undersigned certifies that she is an employee of the Office of the United States Attorney for the Northern District of California and is a person of such age and discretion to be competent to serve papers. The undersigned further certifies that she is causing a copy of the following:

SUBPOENA TO TWITTER, INC.

ATTACHMENT A AND ENCLOSURES

to be served this date by:

☐ FIRST CLASS MAIL by placing such envelope(s) with postage thereon fully prepaid in the designated area for outgoing U.S. mail in accordance with this office's practice.

☐ PERSONAL SERVICE

☐ FEDERAL EXPRESS via Priority Overnight

☒ **EMAIL pursuant to agreement of the parties to accept service by electronic mail**

to the party(ies) addressed as follows:

George Varghese
WilmerHale
60 State Street
Boston, MA 02109
george.varghese@wilmerhale.com

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on March __, 2023 at San Francisco, California.

SAPNA MEHTA
Assistant United States Attorney